

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA §
§
v. § CASE NO. 4:00CR44
§
ALEJANDRO PEREZ-CUELLAR §

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release.

After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on April 27, 2009 to determine whether the Defendant violated his supervised release. The Defendant was represented by Robert Arrambide. The Government was represented by Kevin Collins.

On September 21, 2000, the Defendant was sentenced by the Honorable Paul Brown, United States District Judge, to 46 months imprisonment followed by a 3-year term of supervised release for the offense of criminal alien found unlawfully present in the United States after deportation. Defendant began his term of supervised release on September 17, 2003. This matter was re-assigned to the Honorable Richard A. Schell on March 13, 2009.

On April 18, 2005, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (Dkt. 26). The petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall not commit another federal, state or local crime; (2)

Defendant shall not illegally possess a controlled substance; and (3) immediately upon release from confinement, Defendant shall surrender to a duly authorized immigration official for deportation proceedings in accordance with the established procedures provided by the Immigration and Nationality Act, 8 U.S.C. Section 1101, et seq., if ordered deported, Defendant shall remain outside the United States, and in the event Defendant is not deported, Defendant shall comply with all conditions of supervised release.

The petition alleges that Defendant committed the following violations: (1) on March 19, 2005, Defendant was arrested by Dallas Police Department for Possession of a Controlled Substance, Cocaine, and Possession of a Controlled Substance, Heroin, the offender posted a \$3,500 bond on each case and was released on March 22, 2005, the case has been heard by the grand jury, and the indictment is pending awaiting lab results; and (2) Defendant was deported from the United States on September 17, 2003, and he failed to remain outside the United States, as evidenced by his arrest by the Dallas Police Department on March 19, 2005.

Prior to the Government putting on its case, Defendant entered a plea of true to the alleged violations. Defendant also waived allocution before a district judge. After hearing argument from counsel as to the proposed sentence, the Court recommended that Defendant's supervised release be revoked based on those violations.

RECOMMENDATION

The Court recommends that the District Court revoke the Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that the Defendant be

committed to the custody of the Bureau of Prisons to be imprisoned for a term of twelve (12) months, to be served consecutively to any other sentence being served, with no supervised release to follow.

SIGNED this 28 day of April, 2009.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE